

Notice of Allowability

Application No.

10/045,072

Applicant(s)

SINSKEY ET AL.

Examiner

Maryam Monshipouri

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to _____.
2. ☒ The allowed claim(s) is/are 15.
3. ☒ The drawings filed on 15 January 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 10/26/04
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____:

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An **Examiner's Amendment** to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization of this amendment was given by Mr. Duane A. Stewart III on 10/26/2004.

Examiner's Amendment to the Claims

This application is in condition for allowance except for the presence of claim 14 drawn to non-elected claim 14 without traverse. Accordingly, claim 14 has been cancelled.

Cancel claim 14.

In claim 15, line 7, after "amino acid sequence" delete "in", and substitute therefor --- of ---.

Examiner's Amendments to the Specification

In page 1, underneath "**Pyruvate Carboxylase from Corynebacterium glutamicum**" insert --- This application is a Divisional of U.S. Application No. 09/677,575, filed 10/03/2000 now U.S. Patent No. 6,403,351, issued 6/11/2002, which is a Divisional of U.S. Application No. 09/220,081 filed 12/23/1998, now U.S. Patent No. 6,171,833, issued 1/09/2001---.

The following is an **Examiner's Statement of Reasons for Allowance**:

Claim 15 is directed to a method of making lysine by fermentation, comprising culturing a recombinant *Corynebacterium glutamicum* (C. glutamicum) comprising a DNA sequence having at least 95% identity with that encoding endogenous C.

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glutamicum pyruvate carboxylase, wherein said carboxylase in said strain is expressed 2-20 fold higher than in wild-type *C. glutamicum*, producing lysine and recovering said lysine.

Claimed DNA sequence and homologs thereof as well as method of use of said products are free of prior art. Further, the closest prior art (Peters-Wendisch et al. (Microbiology, 143, 1095-1103, 1997, cited previously) teaches away from the claimed method because in said prior art a method of culturing a lysine producer *C. glutamicum* strain for lysine production did not display any increase in the specific activity of expressed pyruvate carboxylase relative to wild-type (see page 1098, first column) rendering this Invention non-obvious.

Claim 15 is allowed.

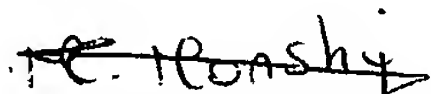
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maryam Monshipouri whose telephone number is (571) 272-0932. The examiner can normally be reached on 7:00 a.m to 4:30 p.m. except for alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnanthapu Achutamurthy can be reached on (571) 272-0928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Maryam Monshipouri Ph.D.

Primary Examiner
